

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE primarily relating to transportation Concurrency; repealing CCC 12.40 and adopting CCC 12.41; modifying the Clark County Comprehensive Growth Management Plan and related documents; and providing for effective dates and other miscellaneous provisions.

WHEREAS, the Growth Management Act (Chapter 36.70A RCW ) requires that transportation facilities be adequate under locally-adopted level-of-service standards to accommodate traffic generated from new development; and

WHEREAS, The Western Washington Growth Management Hearings Board has concluded that the transportation element of the County's Comprehensive Plan is inconsistent with it's 20 year land use plan due to inadequate anticipated funding; and

WHEREAS, at the direction of the Board of County Commissioners, the Department of Public Works and the Department of Community Development have reviewed past practices related to transportation Concurrency; and

WHEREAS, the amendments and additional code provisions approved herein have been reviewed by the Clark County Planning Commission, following a duly-advertised public hearing, and a report thereon from the Planning Commission has been transmitted to the Board; and

WHEREAS, the Board of County Commissioners has held it's own duly-advertised public hearing on these proposed amendments and code provisions; and

WHEREAS, the Board of County Commissioners concludes that adoption of this Ordinance and the associated modifications to the Comprehensive Growth Management Plan and transportation Capital Facilities Plan is in the public interest: now, therefore,

BE IT ORDERED AND RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF CLARK COUNTY, STATE OF WASHINGTON, as follows:

Section 1. Amendatory. Chapter 12.40 CCC (Transportation Concurrency Management System) is hereby repealed and Chapter 12.41 is adopted as set forth in Exhibit A.

Section 2. Amendatory. Chapter 3 and Appendix A of the Clark County Comprehensive Growth Management Plan (Transportation Element) are hereby revised as set forth in Exhibit B.

Section 3. Amendatory. A revised Transportation Capital Facilities Plan (CFP) is hereby adopted on an interim basis as set forth in the Exhibit C. The revised CFP shall be reconsidered for final adoption in conjunction with the Traffic Impact Fee Program update scheduled for consideration by the Board of County Commissioners in October 2000.

Section 4. Effective Date. The amendments and code provisions shall go into effect at midnight on the date of adoption and shall apply to all land use applications subject to the provisions of CCC 12.41 thereafter filed.

Section 5. Pending Land Use Applications. CCC 12.41 shall also apply to any applications pending for approval on the date of adoption if the applicant voluntarily agrees in writing to subject such application to all the provisions of this Ordinance and waive vested rights accordingly. If an applicant does agree to be subject to the provisions of this new Ordinance, the processing timeline set forth in CCC18.600 shall be restarted as of the date of receipt of such written notice.

Section 6. SEPA Appeal. The Board of County Commissioners hereby affirms the DNS threshold determination made by the Responsible Official.

Section 7. Instructions to Clerk. The Clerk to the Board of County Commissioners shall:

- (a) Transmit a copy of this Ordinance to the Washington State Department of Community Trade and Economic Development within ten days of it's adoption, pursuant to RCW 36.70A.106.
- (b) Record a copy of this Ordinance with the Clark County Auditor.
- (c) Cause notice of adoption of this Ordinance to be published forthwith pursuant to RCW 37.70A.290.
- (d) Transmit a copy of this Ordinance to the Western Washington Growth Management Hearings Board.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

Attest

BOARD OF COUNTY COMMISSIONERS  
FOR CLARK COUNTY, WASHINGTON

\_\_\_\_\_  
Clerk to the Board

By \_\_\_\_\_  
Craig A. Pridemore, Chair

Approved as to Form Only  
ARTHUR D. CURTIS  
Prosecuting Attorney

By \_\_\_\_\_  
Betty Sue Morris, Commissioner

By \_\_\_\_\_  
Deputy Prosecuting Attorney

By \_\_\_\_\_  
Judie Stanton, Commissioner

## **Chapter 12.41**

### **TRANSPORTATION CONCURRENCY MANAGEMENT SYSTEM**

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#### **12.41.010 Purpose.**

This chapter implements the requirements in RCW 36.70A.070 that counties (1) establish level of service standards for arterial and transit routes, and (2) ensure that such standards are met or reasonably funded before new development is approved.

#### **12.41.020 Applicability.**

This chapter applies to applications for subdivision, short subdivision, site plan and conditional use permit approvals which have a potential vehicular impact on the level of service of a segment or intersection of (1) any County roadway with a comprehensive plan functional classification of arterial or collector or (2) any state Highway of Regional Significance.

#### **12.41.030 Definitions.**

Unless a contrary definition is provided below, the definitions in Chapter 12.05, Clark County Code shall apply:

(1) "Administrative Manual" means the written documentation adopted by the Director pursuant to this chapter.

(2) "Affected transportation corridor" means any transportation corridor which is reasonably projected to be affected by the transportation related impacts of a proposed development.

(3) "Capacity" means a measurement expressed as the maximum number of peak hour vehicle trips that an individual development may generate as defined in CCC 12.41.140.

(4) "Development" or "Proposed Development" means a proposed subdivision, short subdivision, site plan approval or conditional use permit.

(5) "Development application" means any application for approval of a development to which the provisions of this chapter apply.

(6) "Director" means the Director of the Clark County Department of Public Works or the Director's authorized designee

(7) "Intersection of regional significance" means an intersection at which at least three (3) approaches have a comprehensive plan functional classification of collector or higher.

(8) "Level of Service Standard" or "LOS Standard" means a quantitative standard for the performance of a transportation corridor or intersection of regional significance.

(9) "Mitigation" means the avoidance or minimization of a proposed development's impact upon an affected transportation corridor or intersection of regional significance through such means as limiting or altering the proposed uses, intensities, or design of the development, or by compensating for the impact by replacing, enhancing, or providing transportation system improvements which provide additional capacity.

(10) "Operating Level" means the performance of a transportation corridor or intersection of regional significance, pursuant to CCC 12.41.70.

(11) "Peak Hour" means the consecutive sixty (60) minute period during a twenty-four (24) hour period which experiences the highest sum of traffic volumes, as determined by the Director.

(12) "Reasonably funded" means a mitigation measure or other transportation system improvement that is designated as reasonably funded in the most recent recently adopted version of the County's Transportation Improvement Program, or is designated by the Board of County Commissioners as being reasonably funded.

(13) "Regional Industry" means an industrial or commercial land use which provides significant community-wide or regional economic benefit through the creation of new economic growth and employment opportunity.

(14) "Regional Public Facility" means a land use which is designed to serve the needs of the community or region affected by the impact(s) of development. Regional Public Facilities include: airports, colleges, hospitals, and regional parks or community centers.

(15) "Reserved capacity" means the capacity of a transportation corridor or intersection of regional significance used to accommodate approved but unbuilt developments

(16) "Review authority" means the Planning Director, the County's Hearing Examiner, the Planning Commission, or the Board of County Commissioners, whomever is authorized to approve a development application.

(17) "State Highway of Regional Significance" means a state of Washington owned and maintained roadway or intersection not designated by the state as a Highway of Statewide Significance.

(18) "Transportation Corridor" or "Corridor" means an identified system of road(s) and street(s), which are consistently utilized by vehicular traffic for travel along an identified circulation pattern.

(19) "Transportation Improvement Program" means the current six (6) year financing plan for roads adopted by the County pursuant to RCW 36.81.121, or similar plan adopted by the State Department of Transportation or cities for their highway and street facilities.

#### **12.41.040      Review authority.**

The review authority shall approve, approve with conditions, or deny proposed developments in accordance with the provisions of this chapter.

#### **12.41.050      Transportation impact study.**

- A. A transportation impact study shall be required for all development applications in which the proposed development is projected to have an impact upon any affected transportation corridor or intersection of regional significance, unless the development application is exempt from the provisions of this chapter as provided for in CCC 12.41.050 (G), or the requirement for a study has been waived by the Director.
- B. A transportation impact study shall include, at a minimum, an analysis of the following elements:
  - (a) trip generation, modal split, distribution, and assignment for the proposed development; and
  - (b) an analysis of the projected impact of the proposed development upon the current operating level of any affected transportation corridor or intersection of regional significance.
- C. A transportation impact study shall be prepared by and/or under the supervision of a registered professional engineer in the state of Washington.
- D. A transportation impact study shall be based on traffic counts obtained within twelve (12) months of the fully complete date of the development application as determined under CCC 18.600.050. The traffic counts shall reflect representative traffic conditions within transportation corridors and at intersections of regional significance.
- E. A transportation impact study shall not be required to analyze impacts on affected transportation corridors or intersections of regional significance located more than the following distances from the proposed development (as measured by straight-line distance).
  - 50 or less new peak hour trips at development site – one (1) mile
  - 51 to 250 new peak hour trips at development site – two (2) miles
  - 251 or more new peak hour trips at development site – three (3) miles
- F. The Director reserves the right to require an applicant to provide additional data and/or analysis as part of a particular transportation impact study, where the Director determines

that additional information or analysis is required to implement the standards and requirements contained in this chapter.

- G. No traffic impact study shall be required, pursuant to the provisions of this chapter, where the proposed development will generate less than ten (10) peak hour vehicle trips. However, these proposed developments are still subject to Concurrency reviews and require Concurrency approvals.
- H. Upon the written request of an applicant, the Director may waive the requirement for a transportation impact study, or limit the scope of analysis and required elements of a traffic impact study where the Director determines that the potential transportation impacts upon the affected transportation corridor(s) and/or intersection(s) of regional significance have been adequately analyzed in prior research or reports and/or are not projected to cause a reduction in the operating level of affected transportation corridors and/or intersections.

#### **12.41.060 Requirements for Concurrency Approval**

- A. Each development application subject to the provisions of this chapter shall require a Concurrency review. No development application may be approved by the review authority until such time as a Concurrency approval or conditional Concurrency approval has been issued by the Director.
- B. The Concurrency determination for multiple development applications impacting the same transportation corridors or intersections shall be tested chronologically in accordance with the respective applications' fully complete dates as determined under CCC 18.600.050 (but not the contingent vesting provisions of CCC 18.600.055). For the purpose of this subsection only, the fully complete date for an application delayed in processing for sixty (60) days or longer due to actions or inaction of the applicant (as determined by the Planning Director) shall be adjusted according to the length of such delay.
- C. The Director shall issue a Concurrency approval where the Director determines that the proposed development's impacts upon all affected transportation corridors and intersections of regional significance do not result in the operating levels for the transportation corridors, signalized intersections, and unsignalized intersections falling below the adopted level of service standards established in 12.41.080.
- D. A Concurrency review and approval shall not be required for those affected transportation corridors and intersections of regional significance located more than the following distances from the proposed development (as measured by straight-line distance).
  - 50 or less new peak hour trips at development site – one (1) mile
  - 51 to 250 new peak hour trips at development site – two (2) miles
  - 251 or more new peak hour trips at development site – three (3) miles
- E. The Director may approve and condition mitigation (if volunteered by the applicant) where the Director determines that the proposed development's projected impacts upon an affected transportation corridor or intersection of regional significance can be offset by the mitigation such that the operating levels will not further deteriorate because of the additional traffic generated by the proposed development. The Review Authority may approve a development when the Director determines that achieving the level of service standards would cause significant negative environmental impacts as identified in a SEPA review.

F. Appeals to the determination of the Director with respect to Concurrency shall be made in accordance with CCC 18.600.100. Applications reviewed as Type I and Type II procedures shall be appealed as Type II procedures. For applications reviewed as Type III procedures, the Director's determination shall be treated as a recommendation to the Hearings Examiner.

#### **12.41.070 Determination of Operating Levels**

The operating level for a transportation corridor, signalized intersection, and/or unsignalized intersection shall be defined as the traffic characteristics of those roadways and intersections with consideration of the following factors:

- (1) the existing traffic levels on the roadways and intersections.
- (2) any mitigation measures proposed by the applicant which will be completed and/or implemented prior to occupancy of the proposed development.
- (3) any mitigation measures conditioned to other approved developments which will be completed and/or implemented prior to occupancy of the proposed development.
- (4) the traffic impacts of the proposed development on the affected transportation corridors and intersections.
- (5) the traffic impacts of other approved developments not yet fully built-out on the affected transportation corridors and intersections.
- (6) any improvements being implemented as part of the County's Transportation Improvement Program that are reasonably funded and scheduled for completion of construction within three (3) years of the final date for a decision upon the development application.
- (7) any capacity which has been assigned or reserved to other and/or future developments pursuant to the terms of a development agreement or capacity reservation authorized and executed under the provisions of this chapter.
- (8) Any background traffic growth or traffic from developments exempt from the requirements of this chapter that the Director determines could have an impact on the operating level of the transportation corridors or intersections.
- (9) Any other factors that the Director has determined could have an impact on the operating level of the transportation corridors or intersections.

#### **12.41.080 Level of service standards**

A. Level of service or LOS standards shall be as follows:

- (1) The minimum travel speeds for each designated transportation corridor are shown in - Table I. The designated transportation corridors are shown in Figure I.
- (2) Within the designated transportation corridors, individual movements at each signalized intersection of regional significance shall not exceed an average of two cycle lengths or 240 seconds of delay (whichever is less). All signalized intersections located inside of incorporated cities shall be excluded from this requirement .
- (3) Outside of designated transportation corridors, all signalized intersections of regional significance shall achieve LOS D standards or better, except the intersections of SR-

500/Falk Road and SR-500/NE 54th Avenue which shall achieve LOS E standards or better.

- (4) All unsignalized intersections of regional significance in the unincorporated County shall achieve LOS E standards or better (if warrants are not met). If warrants are met, unsignalized intersections of regional significance shall achieve LOS D standards or better. The signalization of unsignalized intersections shall be at the discretion of the Director and shall not be obligated upon the County to meet this LOS standard.
  - (5) The LOS standards shown in Table I shall be reduced by three (3) mph for those proposed developments that the Director determines comply with the mitigated LOS standards for master-planned developments pursuant to CCC 12.41.150.
  - (6) The LOS standards identified in this subsection shall be applied during peak hour traffic conditions.
- B. The LOS standards established in this subsection shall be applied and interpreted as stated in the Administrative Manual prepared pursuant to CCC 12.41.140.
  - C. The LOS standards and the operating levels for each transportation corridor and intersection of regional significance shall be evaluated and reviewed on an annual basis by the Board of County Commissioners.
  - D. Notwithstanding the provisions for the annual review of LOS standards pursuant to this section, the Board of County Commissioners reserves the authority to enact and renew emergency moratoria and interim zoning or other official controls upon development approvals affecting designated transportation corridors and intersections of regional significance pursuant to RCW 36.70A.390, and may specify qualifications or conditions for the application of such moratoria and interim zoning or other official controls.

#### **12.41.090 Exemptions from Concurrency Requirements**

The following types of development applications shall not be subject to a Concurrency denial.

- (a) K-12 public schools incorporating commitments to commute trip reduction consistent with CCC 5.50
- (b) Fire/police stations
- (c) Public transit facilities

#### **12.41.100 Concurrency survey.**

- A. For purposes of monitoring the cumulative transportation-related impacts of developments which are exempt from the requirements of CCC 12.41, such development applications shall be required to submit a concurrency survey for review by the Director.
- B. Submittals of concurrency surveys shall be made upon written forms provided by the Director and shall be filed with the Director. The concurrency survey shall indicate, at a minimum:

- (1) The type and location of the development;
  - (2) An identification of all affected transportation corridors and intersections of regional significance.
  - (3) The specific reason the development is exempt from the provisions of this chapter;
  - (4) An estimate of the projected total peak hour trips that will be generated by the development;
  - (5) An estimate of the date of occupancy of the development.
- C. The Director shall review and approve the concurrency survey, and may require the submission of additional information prior to approving the survey.
- D. No development application may be approved by the review authority until such time as the applicant has complied with the requirements of this section, and the Director has approved the concurrency survey.

#### **12.41.110      Reservation of capacity.**

- A. Upon issuance of a Concurrency approval by the Director, the transportation capacity allocated by the Director to the development application shall become encumbered capacity. This encumbered capacity shall not be considered for use by another development application until such time as the Concurrency approval expires pursuant to CCC 12.41.110 (D).
- B. Upon issuance of a development approval by the Review Authority, this encumbered capacity shall become reserved capacity and shall not be considered for use by another development application.
- C. Reserved capacity shall not be transferable to another development upon another site. Reserved capacity from a previous development approval shall not be transferable to a different land use development upon the same site.
- D. Concurrency approvals shall be valid for the same period of time as the development approval, and shall expire upon the date the development approval expires. Notwithstanding the provisions of this subsection, a Concurrency approval shall expire upon the date the development application for which the Concurrency approval was required is:
- (a) withdrawn by the applicant; or
  - (b) denied approval by the Review Authority, provided that for purposes of this section, an application shall not be deemed to be denied by the Review Authority until a final decision has been issued pursuant to any administrative appeal under CCC 18.600.100; or until a final decision has been rendered by a Superior Court with competent jurisdiction, where such judicial appeal has been timely filed.

#### **12.41.120      Capacity Reservation for Development Agreements**

The Board of County Commissioners may reserve capacity, prior to approval of a development application by the review authority, through the approval of a development agreement authorized and executed under the provisions of RCW 36.70B.170 . This reserved

capacity shall be accounted for in establishing and reviewing LOS standards and in the determination of operating levels for transportation corridors and intersections.

**12.41.130 Capacity Reservation for Regional Industry/Public Facility/Preferred Land Use**

- A. Where the Board of County Commissioners finds that there is a significant public interest or need to provide for the approval of a regional industry, regional public facility, or preferred land use, that would affect the transportation corridors and/or intersections of regional significance, the Board of County Commissioners may provide for the reservation of capacity for such facilities and land uses. The Board of County Commissioners may direct, by ordinance, that the transportation capacity necessary to accommodate such regional industry, regional public facility, or land use be reserved for the future approval of such regional facilities and land uses.
- B. Such reservation shall be for an identified period of time and shall be subject to annual review by the Board of County Commissioners. This reserved capacity shall be accounted for in establishing and reviewing LOS standards and in the determination of operating levels for the transportation corridors and intersections.

**12.41.140 Establishment of Administrative Manual.**

- A. The Director shall establish and adopt the methodology and criteria to be used to identify transportation corridors and evaluate the operating level for each transportation corridor and intersection of regional significance.
- B. The Director shall establish and adopt the methodology and criteria to be used to identify and evaluate the transportation impacts of developments which are required to be addressed in the transportation impact studies required by CCC 12.41.050.
- C. The Director shall publish and regularly update an administrative manual setting forth the methodology and criteria adopted for the purposes described in subsections (A) and (B) above.
- D. A copy of the most recent version of the administrative manual shall be made available for public inspection and review.
- E. The provisions of the administrative manual shall be consistent with and implement the provisions of this chapter. To the extent the provisions of the manual are inconsistent with the provisions of this chapter, the provisions of this chapter shall control.

**12.41.150 Mitigated level of service for master-planned developments.**

Mitigated level of service standards shall be approved for master-planned industrial, university or office uses, which the review authority finds:

- (1) Provides for family wage jobs as defined in CCC 12.41.160;
- (2) Are approved under CCC 18.414, or, if previously approved, are found to

substantially comply with CCC 18.414;

(3) Are served by a transportation corridor which incorporates measures to mitigate traffic congestion, such as high occupancy vehicle lanes, fifteen (15) minute or better peak hour transit service, freeway ramp metering, or traffic signal coordination; and

(4) Incorporates a commitment to commute trip reduction for all industrial, university and office on-site employers, consistent with CCC 5.50.

#### **12.41.160 Criteria for Family-Wage Job Definition**

A. "Threshold family wage" is the income and benefit package needed to support a three (3) person, single-earner family that precludes them from eligibility for supplemental public assistance. The threshold family wage includes a cash wage and a minimum benefit package. The benefit package must be present, but is not generally included in the value of the cash wage. A cash wage that meets the threshold but does not include benefits does not meet the definition.

1. The threshold cash wage is measured by calculating the county's average annual covered wages, plus twenty-five percent (25%). The annual covered wage data is calculated by and shall be obtained from the Washington State Employment Securities Department. "Covered wages" means wages covered under unemployment compensation laws.
2. To be considered for inclusion in the threshold family wage, a minimum benefit package equal to twelve and one-half (12 1/2) percent of the average annual covered wage of the industry or actual average annual covered wages of the employees, whichever is lower, must be provided and available. Benefits provided by the employer must include, but are not limited to, an employer-paid health insurance, retirement or defined benefit program and a personal leave program.
3. Any benefits with a cash equivalent value in excess of seventeen and one-half (17 1/2) percent of the cash wage may be credited toward cash wage if it falls under the threshold. Excess benefit value may include, but is not limited to, such things as a cafeteria plan, dental, vision, childcare; however, the definition does not include the value of stock options or other investment-based benefits.

#### **B. Standards**

1. To be eligible for mitigated level of service, an employer or prospective employer or employer group(s) must demonstrate that the median number of all covered wage jobs will meet or exceed the threshold family wage. Family wage jobs may be demonstrated by any of the following methods:
  - (a) Provide written documentation such as payroll history, tax records or other verification, as approved by the development approval authority, that average annual covered wages will meet or exceed the threshold family wage. The covered wages are measured at the company's own established internal thirty-six (36) month level-of-pay scale offered to employees, excluding overtime, in place at the time of application for mitigated level of service; or
  - (b) Provide copy of the three (3) digit Standard Industrial Classification code for the business(es) applying for the mitigated LOS incentive. If the average annual covered wages for the industry classification meet or exceed the threshold family wage, and benefits as defined herein are provided, it is assumed that the employer meets the threshold family

- wage. The state Employment Securities Department data shall be used to determine compliance with this criteria; or
- (c) Sign a developer agreement to include affirmation of the fact that average annual wages of all on- site industrial or office employers will meet the threshold family wage upon legal occupancy of the building(s); and
2. Provide a signed, notarized statement and documentation that a minimum benefit package as prescribed in CCC 12.41.160 (A)(2) of this section is provided and available to all regular full-time employees.
- C. Director Obligations. The threshold family wage shall be updated annually in the County code by the Director of Community Development or designee upon publication of the average annual covered wages for Clark County by the Employment Security Department.
- D. Enforcement.
1. At the time of annual update of the threshold family wage data, each recipient of mitigated LOS standard shall be reviewed for compliance with the threshold family wage criteria. This review shall include all employers who have had continuous occupancy of their development for a period of at least thirty-six (36) months and who have not been released from the requirements of this code section. The review shall take place for five (5) consecutive years including the first thirty-six (36) month review. The review shall consist of confirmation with the Washington State Employment Security Department that reported average annual covered wages for the past year meets or exceeds the threshold family wage.
  2. If, after thirty-six (36) months after the date of certificate of occupancy of a building or addition thereto, or as specified in a developer agreement, the recipient fails to meet the threshold family wage for the median of all thirty-six (36) month level-of-pay scale covered wage workers, the developer/employer shall pay a monetary penalty to the County. The penalty moneys shall then be used by the County to improve public roadways and intersections in the vicinity of the development. The amount of the penalty will be calculated as the difference between the threshold family wage required to satisfy the mitigated LOS eligibility standard and the actual average wage paid by the employer, multiplied by the total number of covered wage workers of the employer. This amount will then be increased by fifty percent (50%) and interest added consistent with RCW 82.02.020. The total amount added together will be considered as the amount of the penalty.
  3. If the threshold family is not met after the annual reviews, the penalty shall be as follows:
    - Third year: one hundred (100) percent of the amount calculated in subsection (2) above;
    - Fourth year: eighty (80) percent of the amount calculated in subsection (2) above;
    - Fifth year: seventy (70) percent of the amount calculated in subsection (2) above;
    - Sixth year: sixty (60) percent of the amount calculated in subsection (2) above;
    - Seventh year: fifty (50) percent of the amount calculated in subsection (2) above;
- D. Expenditure of Funds. The penalty funds shall be expended or encumbered for a

permissible use within five (5) years of receipt, consistent with RCW 82.02.020.

**12.41.170      Application of SEPA to the Director's determinations.**

Any determination made by the Director pursuant to this chapter shall be an administrative action that is categorically exempt from the State Environmental Policy Act.